

**MINUTES OF THE TYNGSBOROUGH CONSERVATION COMMISSION MEETING
TOWN HALL COMMUNITY ROOM
November 8, 2005**

Present

HJ: Henry Jungmann, Chairperson	CH: Cynthia Hanna	LC: Lori Capone, Director
RS: Robert Sherburne, Vice Chair	FZ: Frank Zarba	GC: Gloria Clancy, Clerk
LG: Lucy Gertz	JK: Jeff Kablik	

Absent

JZ: Jeanne Zarba	BL: Brian Logue, Associate Member
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7:04 Meeting opened by Henry Jungmann, Chairperson

7:02 (7:05) Connell Construction – 7 Skyline Drive – Notice of Intent: (Map 9, Parcel 23, Lot 14) (Continued from 10/25/05) Proposed construction of a single family dwelling; retaining wall; grading and associated utilities within the buffer zone.

JK: Motion to waive the reading of the Legal Notice.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to waive the reading of the Abutter List.

FZ: 2nd.

Unanimous (6-0).

Steve Eriksen of Norse Environmental Services, Inc. represented the applicant. Scott Connell was also present. He explained that the work within the buffer zone consists of a portion of the house located 79 feet from a bordering vegetated wetland, construction of a boulder wall located 60 feet from the isolated wetland with erosion controls set 57 feet from the wetland. LC commented that there is very extensive grading and a very steep drop off to the wetlands so erosion control should consist of hay bales & silt fencing and with another row of silt fence at the top of the boulder retaining wall once it is installed. This wall will be 6 feet tall in some locations. LC feels we should require the applicant to provide specs on the construction of this wall. HJ said that would fall under the discretion of the Building Commissioner. LC asked about a note on the plan specifies that a dry well may be necessary but no location is specified on the plan. Steve said that is a standard note, but that if a dry well becomes necessary it will be placed outside of the buffer zone. HJ asked for member comments then opened the hearing to abutters. There were none.

RS: Motion to close the hearing.

CH: 2nd.

Unanimous (6-0).

JK: Motion to issue an OOC for 7 Skyline Drive per plan revised 10/24/05 with the condition 1.) Installation of hay bales in addition to silt fence at the toe of the slope along with an extra row of silt fence at the top of the boulder retaining wall when built; and 2.) If a dry well is needed, it shall be placed outside of the buffer zone.

RS: 2nd.

Unanimous (6-0).

7:15 Eric Gardner – 72 Progress Avenue – Notice of Intent: (Map 13, Parcel 46) (Continued from 10/25/05) Proposed construction of a commercial building, bituminous pavement, landscaping, grading and associated utilities within the 100 ft buffer zone. Proposed filling of local jurisdictional wetland.

JK: Motion to waive the reading of the Legal Notice.

CH: 2nd.

Unanimous (6-0).

JK: Motion to waive the reading of the Abutter List.

RS: 2nd.

Unanimous (6-0).

LC said the applicant has requested a continuance to December 13th so they can make changes to the plans as required by the Planning Board.

JK: Motion to continue this hearing until 12/13/05 at 7:02 P.M.

RS: 2nd.

Unanimous (6-0).

Other Business:

- ❖ **Stephen McCarthy of 1 Alden Street** was present to address a letter (actually an Enforcement Order) issued by the Commission regarding the complaints that his dock is altering the natural flow of the shoreline of Long Pond. We had requested that he remove the cinder block footings and replace them with pipes. He showed current pictures showing that he has done as requested. He also passed out an 8-step history of the complaints and his responses to date. He claims that he never did receive LC's letter back in August. LC said she did not send it certified, but it was never returned as undeliverable. As there is no proof of mailing, it was agreed that once LC inspects and is satisfied with the new footings, the E.O. would be lifted and the fee would be waived. Stephen then passed out a written complaint on 7 Alden Street for the same infraction as he was accused of.

7:30 Gloria Cote - 51 Mascuppic Trail – Notice of Intent: (Map 32B, Parcel 59) (Continued from 10/25/05) Proposed 3-season addition to be placed on existing 12' x 16' deck; Repair shoreline retaining wall; Add boulder retaining wall to prevent further erosion; Repave driveway; Remove two dead trees; all within the buffer zone.

JK: Motion to waive the reading of the Abutter List.

RS: 2nd.

Unanimous (6-0).

JK: Motion to waive the reading of the Legal Notice.

RS: 2nd.

Unanimous (6-0).

LC passed out copies of the plans to the members. Gloria Cote was present and answered questions. The proposed addition and repaving of the driveway will not involve any additional disturbance to the buffer zone. The applicant would like permission to help minimize the erosion of her property. There is a section of an existing retaining wall that she would like permission to replace any rocks that have fallen out and reinforce with concrete. This work will be performed by hand. She would also like permission to remove two dead birch, due to beaver damage, add some fill along the shoreline to rebury the exposed roots, cover with filter fabric and place boulders along two sections of the shoreline to prevent further erosion from occurring. Once this is done, she would like to add some additional fill to re-grade a small depression in the yard. HJ asked for member comments then opened the hearing to abutters. There were none.

RS: Motion to close the hearing.

LG: 2nd.

Unanimous (6-0).

JK: Motion to issue an OOC for the project at 51 Mascuppic Trail per plan dated 10/12/05 and discussion.

CH: 2nd.

Unanimous (6-0).

Other Business:

- ❖ LC told the members that we have a request from the attorney for the owner of the **Frost Road Campground** (Mr. Tocci) to lift three old **Enforcement Orders from 1994, 1997 & 1998**. She read from them and told the members she has no way of knowing if the issues were ever resolved. She asked for input from HJ, as he may have some remembrance of them. He said he did not, and suggested we invite Mr. Tocci to the next meeting to discuss this.
- ❖ LC said that we have received an anonymous complaint of **dumping of fill on Oakridge Avenue**. She passed out photos that she took of the area. The complainant did not recognize the party that did the dumping. HJ suggested she send a letter to the owner of the property. Even if that person is not the culprit, he/she still is responsible for any cleanup required.
- ❖ **Director Determination** for Amy Laurencio – **82 Chestnut Road** – proposed second floor addition on existing house and a new porch 84' from the wetland. The only ground disturbance would be sonar tube footings for the porch.
RS: Motion to approve the Director Determination for 82 Chestnut Road.
JK: 2nd.
Unanimous (6-0).
- ❖ **Director Determination** for Gerry Tuck – **1 Farwell Road** – repaving of parking lot within 200' of the Riverfront. The area is already disturbed. The lot pitches toward Middlesex Road, so should not be a run-off problem.
FZ: Motion to approve the Director Determination for 1 Farwell Road.
LG: 2nd.
Unanimous (6-0).
- ❖ **Director Determination** for **85 Jacques Road** – placement of a 16 x 8' shed on cinder blocks within the Riverfront area. There will be no grading required.
JK: Motion to approve the Director Determination for 85 Jacques Road
RS: 2nd.
Unanimous (6-0).
- ❖ LC passed around a picture of the area of **Beaver Run** where the **beaver dam** is. Nic DeMauro used to maintain this beaver dam and had installed a pipe. The dam is now 4' to 5' higher and flooding the culvert under Jacques Rd. as well as neighboring properties. Some of the newer members have not been to the site. LC explained that it is behind 14 Diaz Drive, the last house on the right. The road ends there for now. HJ suggested that she see if the Highway Department supplies the pipes would Scott Connell install them to minimize the **flooding**.

7:45 Merrimack Landing Realty Trust – 91 & 95 Middlesex Road – Notice of Intent: (Map 27, Parcel 2, Lot 0 & 1) Construction of twenty-two, eight unit townhouse style condominiums and apartment buildings, a twenty-four foot wide access drive, parking areas, associated grading, subsurface utilities and associated landscaping, a portion of which is located within 100 feet to a resource area and within the 100 year flood plain.

JK: Motion to waive the reading of the Legal Notice.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to waive the reading of the Abutter List

FZ: 2nd.

Unanimous (6-0).

Matt Waterman, of LandTech Consulting, presented changes to previously approved plans for a Comprehensive Permit for mixed condo and apartment style rental units. He said a slightly different concept is being proposed which will eliminate the apartment style units and incorporate 8 townhouse style buildings. A turning lane is being omitted. He said that there would be additional parking but that the decrease in buildings will result in an overall decrease of impervious surface. Some groundwork is being done under the previously approved Order of Conditions. He said work within the riverfront area is compensatory flood storage, which may be excluded from the riverfront impact calculations under the Wetlands Protection Act. LC questioned the compensatory flood storage design, which may be utilizing existing floodplain area as compensatory storage. We need more detail on the compensatory storage area with one-foot contours to ensure the proper flood volume storage at each elevation. She recommended setting up a 53 G account and sending this application out for review by Holmberg & Howe. HJ opened the discussion to the members, who had many questions, then asked for abutter comments. Although not an abutter, Elizabeth Coughlin asked questions and requested that Mr. Waterman site the Chapter and Section of the Rivers Act regarding the exemption of the compensatory flood storage from the calculations; also, if updated Flood Maps were used. Mr. Waterman said the maps from 1982 were used and that he did not know of any more recent revised maps.

RS: Motion to set up a 53G account of \$2,000 for Consultant Review and send plans out to Holmberg and Howe for review.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to continue this hearing to 12/13/05 at 7:15 P.M.

LG: 2nd.

Unanimous (6-0).

8:00 Whispering Pines Estates – 39 Lakeview Avenue – Notice of Intent: (Map 25, Parcel 13, Lot 0) Proposed residential townhouses, roadway, roadway crossing of an intermittent stream, drainage, grading, and associated utilities within the buffer zone. Also, removal of existing septic system, associated grading and construction of a water pump station within the buffer zone.

JK: Motion to waive the reading of the Legal Notice.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to waive the reading of the Abutter.

FZ: 2nd.

Unanimous (6-0).

Peter Cricones, of East Homes Trust, is the applicant. He presented his proposed Comprehensive Permit Chapter 40B, "Affordable Housing" project. It had been denied by ZBA. The applicant appealed it to the State. During the appeal Mr. Cricones and the ZBA came to terms and settled with a condition that two of the affordable units will be donated to the Tyngsborough Housing Partnership. The applicant is proposing to extend the existing crossing, presently under his driveway, to provide for the new roadway. The applicant claims that in doing so, he will be reducing the impacts originally approved for the driveway crossing. Mr. Cricones said he plans to use cultec rechargers for roof infiltration (the plan makes no indication of these). He said he will utilize a detention pond to meet stormwater management. He says he is giving the Dracut Water Department an Easement along the front of the property for them to place a new pump station that he claims will improve water pressure for the entire area. HJ asked for LC's comments. The applicant has filed this application as a limited project, however, it was pointed out during discussion that he used up his one time limited project status in that same area in a prior filing. LC asked if he had done any perc tests to see if the area was suitable for a detention basin. He said he had not. LC recommended setting up a 53 G account and sending this application out for review by Holmberg & Howe.

HJ opened the discussion to the members. There was discussion. HJ opened it to abutters and there were many with concerns. Emile Lessard - 29 Lakeview Ave., Bill Lekas - 25 Lakeview Ave., Michael Abbrederis - 33 Lakeview Ave., Rick LaFlamme - 123 Frost Rd., Randy Dean - 57 Lakeview Ave., Alice Coughlin, and Elizabeth Coughlin - 61 Lakeview Ave. Most were drainage/flooding concerns and concern for the wildlife habitat. A Wildlife Habitat Study can be ordered at the discretion of the Commission.

RS: Motion to set up a 53 G Account of \$2,000 for Engineering Consultant Review and send the plans out to Holmberg and Howe for review.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to require a Wildlife Study to be done by a qualified wildlife biologist.

FZ: 2nd.

Unanimous (6-0).

JK: Motion to continue this hearing to 12/13/05 at 7:30 P.M.

RS: 2nd.

Unanimous (6-0).

Other Business:

- ❖ LC asked the members to read over the Revisions of Endangered Species Act in their folders.
- ❖ Request for a Certificate of Compliance for 25 Diaz Drive. LC said the builder placed a stone wall at the 30' line, without permission, but that it will help demark the "no-touch zone". The house ended up being 68' from the wetland, 5' closer than planned but still outside the 50' no-build zone.

JK: Motion to issue a C.C. for 25 Diaz Drive.

RS: 2nd.

Unanimous (6-0).

- ❖ Request for a Certificate of Compliance for 4 Rello Way. The house ended up being 72.5' from the wetland, 5' closer than planned but still outside the 50' no-build zone.

Minutes 11/8/05 continued

FZ: Motion to issue a C.C. for 4 Rello Way.

JK: 2nd.

Unanimous (6-0).

- ❖ Request for a Certificate of Compliance for 16 Diaz Drive. The house ended up being 11' further away from the wetland than planned.

FZ: Motion to issue a C.C. for 16 Diaz Drive.

LG: 2nd.

Unanimous (6-0).

- ❖ Request for a Certificate of Compliance for 14 Diaz Drive. The builder placed a stone wall at the 30' line. However, it might help control the spread of the beaver pond that is spreading.

FZ: Motion to issue a C.C. for 14 Diaz Drive.

RS: 2nd.

Unanimous (6-0).

- ❖ LC told the members that Ron Vieira of 7 Alden Street has commented that there is a lot of erosion along the shore of the recently acquired Long Pond Shores property.
- ❖ Vesper Country Club had volunteered to do some tree planting along with the repairs to their pump house filing. However the Planning Board made them put their water lines underground and they are worried that the root systems would become a problem if they planted where they had planned. HJ suggested LC tell them to still plant but she could choose another location along the bank.

LG: Motion to accept the minutes of the Meeting of October 25, 2005.

RS: 2nd.

4 Yeas; 1 Abstain (CH had not been present).

Motion Carried.

The members signed the C.C.s for 25, 16 & 14 Diaz Drive and 4 Rello Way, and the OOCs for 18 Bridle Path Way, 51 Mascuppic Trail and 7 Skyline Drive.

HJ reminded the members that they are invited to help clean up the trails and the Sherburne House this Saturday at 9:00 A.M.

JK: Motion to adjourn.

CH: 2nd.

Unanimous.

Meeting adjourned at 9:10 P.M.

Minutes taken and respectfully submitted by Gloria Clancy, Clerk